

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TRAVIS S. SWEIGART,

Plaintiff,

v.

VOYAGER TRUCKING CORP., KEVIN
J. PATTEN, BLUE & GREEN
TRUCKING & HAIR, LLC, KEVIN J.
PATTEN d/b/a BLUE & GREEN
TRUCKING & HAIR, LLC

Defendants.

CIVIL ACTION NO. 5:21-cv-00922-EGS

PLAINTIFF'S PRETRIAL MEMORANDUM

**I. Statement of the Nature of the Action and Basis
on Which the Court's Jurisdiction is Invoked**

This negligence action stems from a September 9, 2019 crash. Plaintiff Travis Sweigart suffered catastrophic injuries when a tractor-trailer driven by defendant Kevin Patten collided with Mr. Sweigart's motorcycle. The crash occurred when Mr. Patten pulled his truck from a stop sign into Mr. Sweigart's right-of-way as Mr. Sweigart drove to work on State Highway 10 in Berks County, Pennsylvania. The Court has diversity jurisdiction over the action under 28 U.S.C. §§1332(a)(1) and 1332(c)(1). The amount in controversy is in excess of \$75,000.00 and the action is between citizens of different States.

Plaintiff Sweigart is a resident and domicile of the Commonwealth of Pennsylvania. Defendant Patten is a resident and domicile of the State of New Jersey. Defendant Voyager Trucking Corp. is a corporation organized in the State of New Jersey, where it maintains its principal place of business. Defendant Blue & Green Trucking & Hair, LLC is likewise organized in the State of New Jersey and has its principal place of business there. At the time of the accident,

Kevin J. Patten d/b/a Blue & Green Trucking & Hair, LLC was a sole proprietorship based in New Jersey.

II. Statement of the Facts of the Case

On Monday, September 9, 2019, Mr. Patten, was operating a tractor-trailer for co-defendant Voyager Trucking Corporation (“VTC”). He was hauling municipal waste from Patterson, New Jersey, to the Conestoga Landfill in Morgantown, Pennsylvania.

Mr. Patten went to sleep the night before sometime after 8:45 p.m. He had been in Atlantic City celebrating his wedding anniversary over the weekend. He testified that he woke up at “around 2, 2:30.”

According to the “KeepTruckin” fleet-operation app on his phone, Mr. Patten departed Paterson at 2:42 a.m. The trailer was fully loaded. The entire rig weighed roughly 77,000 lbs. (over 38 tons). Mr. Patten’s wife was with him. She felt ill and was in the sleeper.

At 5:35 a.m., Mr. Patten received a call from his cousin, Andre Hamilton. At that moment, Mr. Patten was heading south on I-176, a freeway between Reading and Morgantown. He was only a few minutes from the landfill.

Mr. Patten signed a safety policy when he began hauling for VTC barring all cell phone conversations while driving. According to the phone record and KeepTruckin log, Mr. Patten violated that policy literally every day he drove for VTC. He violated it again that day; he answered his cousin’s call.

Mr. Patten continued the call as exited I-176 to turn left onto Morgantown Road (Route 10). At that moment, Mr. Sweigart was traveling west on Route 10. He was driving a motorcycle to work at a roofing company, where he was a foreman. It was dark out, but there were streetlights, including at the intersection itself. The speed limit is 45 mph on Route 10.

Mr. Patten had a stop sign. Mr. Sweigart did not. By law, Mr. Sweigart had the right of way. Visibility at that stop sign is poor due to terrain and vegetation. Pennsylvania law thus required Mr. Patten to pull forward from the stop sign far enough in the intersection to see traffic from his left. That is what drivers do at this intersection. That is what Mr. Patten testified that he did.

Recently obtained GPS data from the “Keep Truckin’” (Motive) software on Mr. Patten’s truck, however, contradicts Mr. Patten’s sworn testimony that he stopped twice – once at the stop sign and once very close to the travel lane (also called the “fog line”). The GPS data indicate that Mr. Patten stopped only once, much farther back from the fog line than he stated in his deposition.

This is highly relevant because, while the truck moved very slowly forward between the actual stopping point and the fog line, Mr. Sweigart reasonably believed that the truck was pulling forward to stop. In other words, Mr. Sweigart anticipated that Mr. Patten would do what he testified that he did (but didn’t).

At the time of the crash, no traffic was nearby. The two drivers are the only eyewitnesses. Mrs. Patten saw nothing (from the sleeper). Mr. Sweigart estimates his speed was 45-50 mph; he braked hard but did not have time to avoid a collision. The back motorcycle tire skidded.

There is no dispute that as the bike slid toward the truck, it went down on its right side and rotated 180 degrees. Facing backward, the motorcycle, with Mr. Sweigart on it, collided with the trailer’s left rear wheel; then they both bounced to the north edge of the road.

The impact with the moving trailer caused the motorcycle’s rear fender and subframe to fold over and crush Mr. Sweigart’s pelvis.

Mr. Sweigart asserts a negligence claim against Mr. Patten and vicarious liability claims against VTC and the Blue & Green entities.

In support of his liability claims, Mr. Sweigart will present testimony from the following expert witnesses:

- Accident reconstructionist Stanley B. Andrews, MSBAE (attached hereto as **Exhibit A** is Mr. Andrews' October 3, 2022, report and CV);
- Trucking expert Jon Paul Dillard, CDS (attached hereto as **Exhibit B** is Mr. Dillard's February 21, 2022, report and CV; attached hereto as **Exhibit C** is Mr. Dillard's March 4, 2022, rebuttal report);
- Motorcycle operation expert Randy Nelson (attached hereto as **Exhibit D** is Mr. Nelson's February 21, 2022, report and CV; attached hereto as **Exhibit E** is Mr. Nelson's April 25, 2022, rebuttal report);
- Cell phone/distracted driving expert David Strayer, Ph.D. (attached hereto as **Exhibit F** is Dr. Strayer's February 23, 2022, report and CV, attached hereto as **Exhibit G** is Dr. Strayer's April 23, 2022, rebuttal report);
- Human factors expert Joellen Gill, MS, CHFP, CXLT, CSP (attached hereto as **Exhibit H** is Ms. Gill's October 3, 2022, report and CV);
- Biomechanical expert Calum G.A. McRae, Ph.D. (attached hereto as **Exhibit I** is Dr. McRae's February 22, 2022, report and CV).

III. Monetary Damages Claimed

In addition to Mr. Sweigart's pelvic injuries, described by his physicians as the worst they had ever seen, Mr. Sweigart suffered the following catastrophic injuries in this accident:

- Rectum and anus completely ripped off the surrounding soft tissue attachments and retracted up into the pelvis, necessitating abdominoperineal resection and permanent colostomy;
- Internal shaft of the penis completely separated from the normal anatomy, necessitating permanent urinary catheter and resulting in permanent sexual dysfunction;

- Crushed right ankle, with disrupted blood flow, requiring a right below knee amputation;
- Severe left heel calcaneous fracture, anticipated left below knee amputation within the year due to non-union, continued pain;
- Right hip socket completely obliterated;
- Stage IV ischial ulcer, requiring extensive wound care, including surgical excision and flap reconstruction;

Plaintiff's experts, Guy Fried, M.D., Vice Chair of Rehabilitation at Magee, and Valerie Parisi, RN, a Philadelphia life care planner, detailed Mr. Sweigart's extensive past medical care, present condition and future needs.

Past *paid* medical expenses (for which there is a lien asserted) amount to \$981,711.87.

Ms. Parisi conservatively projects future lifetime medical expenses of \$7,504,868.28.

Mr. Sweigart will not seek damages for lost earnings or loss of future earnings capacity.

In support of his damages claims, Mr. Sweigart will present testimony from the following expert witnesses:

- Dr. Fried (attached hereto as **Exhibit J** is Dr. Fried's November 4, 2021, report and CV; attached hereto as **Exhibit K** is Dr. Fried's February 4, 2022, review of the Parisi report);
- Nurse Parisi (attached as **Exhibit L** is Ms. Parisi's January 10, 2022, report and CV);
- Treating orthopedic surgeon Ryan Michels, MD (attached as **Exhibit M** is Dr. Michels' October 13, 2021 report, February 4, 2022 addendum, and CV);
- Treating general surgeon Filip Moshkovsky, MD (attached as **Exhibit N** is Dr. Moshkovsky's February 7, 2022, report and CV);
- Prosthetics expert Dale Berry, CP, FAAOP, LP (attached hereto as **Exhibit O** is Mr. Berry's July 29, 2021, report and CV; attached hereto as **Exhibit P** is Mr. Berry's October 20, 2021, supplemental report).

IV. Witnesses

Fact Witnesses

1. Travis Sweigart (plaintiff)
1396 Geigertown Road
Geigertown, PA 19523
2. Casey Cairns
1396 Geigertown Road
Geigertown, PA 19523
3. Kevin Patten (defendant)
450 Park Avenue
Paterson, NJ 07504
4. Andre Hamilton
35 Prescott Avenue
Garfield, NJ 07026
5. John Costa
c/o Voyager Trucking Corp.
451 Frelinghuysen Avenue
Newark, NJ 07114
6. Liam Tanelli
c/o Voyager Trucking Corp.
451 Frelinghuysen Avenue
Newark, NJ 07114
7. Justin Haskins
c/o Voyager Trucking Corp.
451 Frelinghuysen Avenue
Newark, NJ 07114
8. Zanna Patten
450 Park Avenue
Paterson, NJ 07504
9. Kyle Tranovich
10. Kevin Bambrick

11. Thomas Brecker
12. Timothy Mast
305 East Main Street
Apartment 1
New Holland, PA 17557
13. Robert Lavery
c/o Beiler Brothers Roofing
836 Peters Road
New Holland, PA 17557
14. Tyler Sakal
41 West Fifth Street
Pottstown, PA 19464
15. Christopher Smith
Elverson-Honey Brook EMS Facility, 4458
12 Main Street
Elverson, PA 19520

16. Matthew Menna

Expert Witnesses

17. Stanley Andrews, MSBAE
Ei Consultants
P.O. Box 610
Farmington, AR 72730
18. Jon Paul Dillard, MSBAE
JP Transportation Safety Consulting
4000 Eagle Point Corporate Drive
Birmingham, AL 35242
19. Randy Nelson
Motorcycle Dynamics
701 S Andreasen Drive, Suite A
Escondido, CA 92029
20. David Strayer, Ph.D.
University of Utah
Department of Psychology
380 South, 1530 East

Room# 502
Salt Lake City, Utah 84112-0251

21. Joellen Gill, MS, CHFP, CXLT, CSP
Applied Cognitive Sciences
10501 S. Lambs Lane
Mica, WA 99023
22. Calum G.A. McRae, Ph.D.
ARCCA, Incorporated
2288 Second Street Pike
P.O. Box 78
Penns Park, PA 18943
23. Joseph L. Purfield, Jr.
Bit by Bit Data Recovery Services LLC
Bernville, PA 19506
24. Guy Fried, MD
Magee Rehabilitation Hospital
1513 Race Street
Philadelphia, PA 19102
25. Valerie Parisi, RN
Valpar Consultants, Inc.
109 Windsong Drive
Doylestown, PA 18901
26. Ryan Michels, MD
Orthopaedic Associates of Reading, Ltd.
850 Knitting Mills Way
Wyomissing, PA 19610
27. Filip Moshkovsky, MD
Reading Hospital
P.O. Box 16052
Reading, PA 19612-6052
28. Dale Berry, CP, FAAOP, LP
3000 Astoria Pines Circle
Las Vegas, NV 89107

29. Ethan Geehr
Medics Medical Graphic Services
440 E. 3rd Street
Moorestown, NJ 08057

Plaintiff reserves the right to call any and all witnesses listed in the Pre-Trial

Statements of the defendants.

V. Exhibits

An Exhibit list is attached as **Exhibit Q**. Plaintiff's medical bills have been removed from his exhibit list pursuant to the Stipulation executed by counsel and electronically filed on September 21, 2022 (Document 158). Plaintiff reserves right to add the bills to exhibit list in the event the Stipulation is not signed by the Court.

Plaintiff reserves the right to use any and all exhibits listed in the Pre-Trial

Statements of the defendants.

VI. Estimate of the Number of Days Required for Trial

Ten Days.

RAYNES & LAWN

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